

**REMARKS**

In accordance with the foregoing, claims 1-14 are amended to improve form; thus, the pending claims 1-14 remain for reconsideration, which is respectfully requested.

No new matter has been added and, accordingly, entry and approval of amended claims 1-14 are respectfully requested.

**STATUS OF THE CLAIMS:**

Claims 1-14 are pending.

Claims 1-14 are rejected.

**ITEMS 2-3: REJECTION OF CLAIMS 13 AND 14 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH, AS ALLEGEDLY FAILING TO COMPLY WITH THE WRITTEN DESCRIPTION REQUIREMENT.**

In accordance with the foregoing, claims 13 and 14 are amended taking into consideration the Examiner's comments. Support for the claim amendments can be found, for example, in the application Specification at page 9 lines 15-21. Withdrawal of the claim rejections is respectfully requested.

**ITEMS 4-6: REJECTION OF CLAIMS 1-14 UNDER 35 U.S.C. § 101 AS ALLEGEDLY BEING DIRECTED TO NON-STATUTORY SUBJECT MATTER.**

The Office Action, at item 5, rejects claims 13 and 14 under 35 U.S.C. § 101. In accordance with the foregoing, claims 13 and 14 are amended taking into consideration the Examiner's comments. Withdrawal of the claim rejection is respectfully requested.

The Office Action, at item 6, rejects independent claims 1 and 7 under 35 U.S.C. § 101, asserting that (1) the "units" of claim 1 and 7 are merely functional elements of a program and are thus non-statutory and (2) in claims 1 and 7 there is not a practical application that produces any concrete, tangible and useful result. Applicants respectfully disagree with the Examiner's assertions.

Applicants respectfully submit that there is no statutory basis for interpreting claims 1 and 7 in view of claims 13 and 14.

Furthermore, claim 1, recites in part, "a display device" and "a touch panel disposed in front of said display device" and therefore is clearly claiming an tangible apparatus and not a

merely a program. As a further example, claim 1 recites “performing processing in response to a touch position pointed to by a user on said touch panel in said touch panel mode of operation” and therefore claim 1 is clearly claiming an apparatus which is capable of being touched and responding to being touched by, for example, a stylus pen, and therefore is clearly statutory subject matter under 35 U.S.C. § 101.

While the applicants respectfully submit that claims 1 and 7 clearly recite an apparatus which constitutes statutory subject matter, even if the apparatus did recite features related to a computer program, the Applicants submit claims 1 and 7 would still comply with 35 U.S.C. § 101. The Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (herein after referred to as the “Interim Guidelines”) recites at page 53, lines 14-21:

**Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory. (emphasis added)**

Claim 1 recites, in part, “a display device” and “a touch panel disposed in front of said display device” and therefore, “taken as a whole,” clearly recites more than a mere program listing. Therefore according to the Interim Guidelines, the Applicants respectfully submit claims 1 and 7 comply with 35 U.S.C. § 101. Withdrawal of the claim rejections is respectfully requested.

Independent claim 7 complies with the requirements of 35 U.S.C. § 101 for similar reasons as independent claim 1.

### **CONCLUSION**

The Office Action asserted no prior art against pending claims 1-14. In accordance with the foregoing, there being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.


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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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